

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES KERN,

Plaintiff,

v.

JIM COOPER, et al.,

Defendants.

No. 2:23-cv-0618 AC P

ORDER

Plaintiff is a county prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983.

By order filed November 8, 2023, the court screened the complaint and found that plaintiff had stated claims for relief against Does 1-3. ECF No. 12. The undersigned later granted plaintiff's request for a subpoena form and service by the United States Marshal after plaintiff submitted evidence that the jail was refusing to provide him with the information regarding defendants' identities without a subpoena. ECF No. 16. Plaintiff has now returned a completed subpoena form. ECF No. 18. However, the form is not properly completed, and plaintiff will be required to submit a properly completed form before the court will order service.

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1 Plaintiff is advised that the subpoena must identify the person from whom he is seeking to
2 compel documents and the address at which they can be served.¹ Furthermore, in the “Place” and
3 “Date and Time” sections of the subpoena, plaintiff should identify where the documents
4 responsive to the request should be sent and the date by which a response is due.² Plaintiff is
5 advised that any deadline for responding to the subpoena must be reasonable (e.g., thirty days
6 from service of the subpoena). The subpoena should also specify that plaintiff is seeking
7 documentation identifying the defendants, along with any information he has regarding the
8 defendants’ identities. This information can be provided as an attachment to the subpoena.

9 Plaintiff has also filed a request for instructions on how to move to substitute named
10 defendants for the Doe defendants and any forms for doing so and a motion requesting assistance
11 in obtaining a copy of his medical records, including the possible issuance of a subpoena. ECF
12 nos. 17, 20. The court does not have forms for substituting a defendant and the request for such
13 forms will be denied. Plaintiff is advised that once he identifies the Doe defendants, he should
14 file a motion to substitute providing the defendants’ names and stating which Doe defendant he
15 would like to substitute for each named defendant. With respect to plaintiff’s request for
16 assistance obtaining his medical records, the request will be denied. The defendants have yet to
17 be identified, and any discovery beyond that necessary to identify the defendants for service is
18 premature at this stage.

19 Accordingly, IT IS HEREBY ORDERED that:

20 1. The Clerk of the Court is directed to provide plaintiff with a signed but otherwise
21 blank Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of
22 Premises in a Civil Action;

23 2. Within twenty-one days from the service of this order, plaintiff shall complete the
24 attached Notice of Submission of Documents and submit it to the court with the completed
25 subpoena;


26 ¹ The subpoena returned by plaintiff identifies “The Clerk of the Court” as the person to whom
27 the subpoena is directed.

28 ² The subpoena submitted by plaintiff appears to provide information related to identifying
defendants in these sections.

1 3. Plaintiff's request for instructions on how to substitute named defendants and the
2 applicable forms (ECF No. 17) is GRANTED to the extent clarification has been provided above
3 and is otherwise DENIED; and

4 4. Plaintiff's motion for assistance with discovery or service of a subpoena for medical
5 records (ECF No. 20) is DENIED without prejudice as premature.

6 DATED: January 22, 2024

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8 ALLISON CLAIRE
9 UNITED STATES MAGISTRATE JUDGE
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NOTICE OF SUBMISSION OF
DOCUMENTS

Plaintiff submits the following document in compliance with the court's order filed

_____:

_____ 1 _____ completed Subpoena to Produce Documents, Information, or Objects or to
Permit Inspection of Premises in a Civil Action

DATED:

Plaintiff